# Fourth Court of Appeals
San Antonio, Texas

## MEMORANDUM OPINION

No. 04-15-00565-CV

**IN THE INTEREST OF M.C.M.**, a Child

From the County Court at Law No. 2, Webb County, Texas
Trial Court No. 2013CVW000960-C3
Honorable Jesus Garza, Judge Presiding

Opinion by: Sandee Bryan Marion, Chief Justice

Sitting: Sandee Bryan Marion, Chief Justice
Marialyn Barnard, Justice
Luz Elena D. Chapa, Justice

Delivered and Filed: June 8, 2016

AFFIRMED

This is an appeal from a Texas "Order Enforcing Support Obligation (UIFSA)," which was based on a prior order entered by a Massachusetts state court. On appeal, appellant complains the Texas court erroneously applied Massachusetts law and erred by granting the Texas Attorney General's motion to enforce. We affirm.

**BACKGROUND**

In 2001, a Massachusetts court issued an order adjudicating appellant as the father of M.C.M. and ordering him to pay $125.00 per week in child support. In 2004, the Massachusetts court modified its 2001 order, finding appellant in arrears in the amount of $4,073.94 (exclusive of interest and penalties) and ordering him to pay child support in the amount of $175.00 per week,

plus an additional $25.00 towards his arrearage. In 2013, the Massachusetts court issued an order stating as follows:

> 1. [Appellant's] child support obligation is $175.00 per week plus $25.00 per week towards arrears shall continue until the parties' child's emancipating as defined by [statute]. The parties' child is presently a full time undergraduate student and residing with the Plaintiff Mother when not at college.
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> 2. [Appellant's] child support arrears payment shall be adjusted to $200.00 [per] week upon emancipation of the child and shall continue to be paid through the Department of Revenue (DOR) until paid in full.

Meanwhile, in Texas in 2013, the Texas Attorney General filed a notice of registration of the Massachusetts 2004 order.[1] In 2014, the Attorney General moved to enforce the three Massachusetts state court orders. Over several hearings held in Texas in 2015, the trial court admitted into evidence the three Massachusetts orders and a payment record from Massachusetts showing appellant had a principal arrearage of $42,534.68 in unpaid support, plus additional interest and penalties. After a final hearing, the Texas trial court confirmed the arrearage amount and rendered judgment against appellant and in favor of the Attorney General for the amount of $58,084.66 as of March 5, 2015. The court ordered appellant to pay $2,000.00 on or before July 13, 2015 and to pay $300.00 per month beginning August 13, 2015. The court also found appellant in contempt for failing to pay his court-ordered child support payments on four specific dates, and ordered him committed to county jail for 180 days for each separate act of contempt. However, the court suspended commitment if appellant paid the arrearage judgment as ordered.

## DISCUSSION

Appellant raises two issues on appeal. First, he asserts the trial court erred when it found him in contempt "because the Court erroneously applied and misinterpreted Massachusetts

[1] The Uniform Interstate Family Support Act ("UIFSA") provides a procedure for the registration of interstate support orders. *See* TEX. FAM. CODE ANN. § 159.602 (West Supp. 2015).

Domestic Relations law to the facts of this case." Second, appellant asserts the court erred by granting the Attorney General's motion to enforce "when the Texas Attorney General failed to prove the case in chief by clear and convincing evidence."

As to appellant's first complaint, "[a]ppellate courts do not have jurisdiction to review contempt proceedings on direct appeal." *In re T.L.K.*, 90 S.W.3d 833, 841 (Tex. App.—San Antonio 2002, no pet.). Therefore, we must dismiss appellant's first issue for lack of jurisdiction. However, we may consider rulings made simultaneous to a contempt order that do not arise from the contempt action. *In Interest of A.M.*, 974 S.W.2d 857, 861 (Tex. App.—San Antonio 1998, no pet.). Accordingly, we next address appellant's complaint regarding the trial court's granting the motion to enforce. On this issue, appellant's brief is poorly developed; however, in the interest of justice, we construe his argument as being that there is no evidence M.C.M. resided with her mother or was enrolled as a full-time student.

A trial court's ruling on child support will not be reversed on appeal unless there is a clear abuse of discretion. *Worford v. Stamper*, 801 S.W.2d 108, 109 (Tex. 1990). The test is whether the trial court acted arbitrarily, unreasonably, or without reference to guiding rules and principles. *Id.* In family law cases, the abuse of discretion standard overlaps with traditional sufficiency standards of review; as a result, legal and factual sufficiency are not independent grounds of error, but are relevant factors in assessing whether the trial court did in fact abuse its discretion. *In Interest of G.J.S.*, 940 S.W.2d 289, 293 (Tex. App.—San Antonio 1997, no pet.). The reviewing court must view the evidence in the light most favorable to the trial court's actions and indulge every legal presumption in favor of the order. *Holley v. Holley*, 864 S.W.2d 703, 706 (Tex. App.—Houston [1st Dist.] 1993, writ denied). There is no abuse of discretion if some probative and substantive evidence supports the order. *Id.*

The Texas trial court admitted into evidence the Massachusetts "Child Support Enforcement System Financial Summary Report," which details appellant's payment record from October 2004 to January 2015. On appeal, appellant raises no complaint regarding this evidence. To the extent appellant complains about evidence heard by the Massachusetts court, we note that the Full Faith & Credit Clause of the United States Constitution applies to judgments under the UIFSA. U.S. CONST. art. IV, 1; *In the Interest of G.L.A.*, 195 S.W.3d 787, 792-93 (Tex. App.—Beaumont 2006, pet. denied); *Villanueva v. Office of the Atty. Gen.*, 935 S.W.2d 953, 954-55 (Tex. App.—San Antonio 1996, writ denied). The introduction of a properly authenticated foreign judgment rendered by a court of general jurisdiction establishes a prima facie case in favor of the judgment's enforcement. *Nunez v. Nunez*, 771 S.W.2d 7, 9 (Tex. App.—San Antonio 1989, no writ). Therefore, once the Massachusetts orders were properly authenticated and admitted into evidence, appellant had the burden of proving they were not entitled to full faith and credit. *Id.* He has not done so. Instead, he complains the only evidence in support of the order was "the self-serving testimony" of the child's mother.

The child's mother did not testify before the Texas court and appellant provides no citation to the record for her testimony. We must assume appellant is referring to the mother's testimony before the Massachusetts court. A defense asserted in a Texas court against enforcement of a foreign judgment is a collateral attack. *Karstetter v. Voss*, 184 S.W.3d 396, 402 (Tex. App.—Dallas 2006, no pet.). In a collateral attack on a sister state's judgment, no defense that goes to the merits of the original controversy may be raised. *Id.*

Because the Massachusetts "Child Support Enforcement System Financial Summary Report," is some probative and substantive evidence supporting the Texas court's order, we cannot conclude the trial court abused its discretion in granting the Attorney General's motion to enforce.

## CONCLUSION

We dismiss appellant's first issue on appeal for lack of jurisdiction and overrule his second issue.[2] We affirm the trial court's "Order Enforcing Support Obligation (UIFSA)."

Sandee Bryan Marion, Chief Justice

[2] In his prayer for relief, appellant contends this court should vacate and nullify the trial court's order because the trial court should have granted his motion to dismiss for want of prosecution. Any complaint on appeal regarding appellant's motion to dismiss is waived because he did not raise or brief the issue, nor has he provided any citations to the record or authority. TEX. R. APP. P. 38.1(i); *see Fredonia State Bank v. General Am. Life Ins.*, 881 S.W.2d 279, 284-85 (Tex. 1994) (appellate court has discretion to waive points of error due to inadequate briefing).